

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.) No. 4:10-CR-00611 (SNLJ)
)
 LOWELL AUGHENBAUGH,)
)
 Defendant.)

SENTENCING HEARING
BEFORE THE HONORABLE STEPHEN N. LIMBAUGH, JR.
UNITED STATES DISTRICT JUDGE
OCTOBER 5, 2011

APPEARANCES:

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1 (PROCEEDINGS BEGAN AT 1:20 PM.)

2 THE CLERK: All rise. This Court is again in
3 session. You may be seated.

4 THE COURT: All right. This is *United States of*
5 *America v. Lowell Aughenbaugh*. Case Number is 10-CR-611.

6 The Government is present by Assistant United States
7 Attorney Matthew Drake. Defendant is present in person and by
8 counsel, Adam Fein.

9 There are a few -- This matter is set today for
10 sentencing, but there are a few preliminary matters that we
11 need to handle. I think I've dealt with most of the motions
12 that have been coming in, two or three per day leading up to
13 the sentencing date. The only one I think I've not ruled on
14 is the fourth Motion for Leave to File Under Seal, and I'll
15 grant that motion. I'll ask the Clerk to see if there are any
16 other outstanding motions.

17 Mr. Aughenbaugh, I've received the Presentence Report
18 from the Probation Office, and there's been an official
19 revised final version that was filed just yesterday, and so I
20 want to know if you've received a copy of the report, have you
21 read it, and have you reviewed it in detail with your lawyer?

22 THE DEFENDANT: I seen the draft, Your Honor.

23 THE COURT: The first one. There are just minor
24 corrections to the final draft.

25 THE DEFENDANT: Okay.

1 THE COURT: Have you read it then?

2 THE DEFENDANT: Yes, Your Honor.

3 THE COURT: Okay. And you've reviewed it in detail
4 with your lawyer?

5 THE DEFENDANT: I have.

6 THE COURT: Now in chambers you indicated, Mr. Fein,
7 that some of the objections that you raised you're not
8 interested in pursuing at this time?

9 MR. FEIN: No. No, Your Honor. There were just
10 minor objections to the PSR.

11 THE COURT: Yeah. Let's just go over those briefly.
12 I got Document No. 70 that was filed on the 29th of September.
13 You object to Paragraph 8, Paragraph 11, Paragraph 12,
14 Paragraph 67.

15 MR. FEIN: That's correct, Your Honor.

16 THE COURT: All right. How do you want to address
17 those now? Are those -- Are those contested by the Government
18 or ---

19 MR. DRAKE: Your Honor, I received the Defendant's
20 objections, and they uniformly do not impact the *Guidelines* or
21 anything like that.

22 THE COURT: Right; that's right. They're just more
23 really factual discrepancies.

24 MR. DRAKE: Correct. I do think, though, that the
25 Presentence Report is correct. I think what they're doing is

1 supplementing information to what the Presentence Report says.
2 In other words, for instance, Objection No. 2 to Paragraph 11
3 that indicates that Jacob Aughenbaugh possessed the keys, I
4 don't have any quarrel with that. It supplements what's
5 already in the PSR. So to the extent that these are
6 objections that are adding additional information for the
7 Court's consideration, I don't disagree with them, and I think
8 that that's what they do.

9 THE COURT: I do say that most of them are predicated
10 as -- for clarification.

11 MR. DRAKE: Correct.

12 THE COURT: What about No. 8? That's the only one
13 that's not in that kind of a category.

14 MR. DRAKE: Oh. Well, Your Honor, I am aware and I
15 do believe that it is correct that there is a deposition which
16 the witness that's identified, Jacob Aughenbaugh, stated this
17 in the deposition. However, I would contest that the PSR is
18 still accurate. It does say the police reports indicated that
19 Mr. Aughenbaugh told his son that he planned to blow up the
20 Rolla Police Department. Those police reports do say that,
21 and the PSR's findings that they say it are correct. The
22 issue is whether or not he's retracted that statement. In
23 this deposition, I think that he has, the witness that's
24 identified here.

25 MR. FEIN: Perhaps by agreement, Your Honor, we can

1 simply put in there, "Under deposition, Mr. Aughenbaugh
2 further stated."

3 THE COURT: Okay.

4 MR. DRAKE: I have no problem with that, Your Honor.

5 THE COURT: In that case -- I take it then that the
6 Government's willing to agree to these clarifications, as you
7 might want to call them then.

8 MR. DRAKE: Yes, Your Honor.

9 THE COURT: All right. In that case, I'll ask
10 counsel for Defendant: With close clarifications that the
11 Court will note, is there any other objection or additions or
12 corrections to the Presentence Report for Defendant then?

13 MR. FEIN: There are not, Your Honor.

14 THE COURT: All right. For the Government?

15 MR. DRAKE: And we have no objections to the report.
16 Thank you.

17 THE COURT: All right. In that case, the Court will
18 adopt as its findings of fact the factual statements set out
19 in the Presentence Report.

20 I'll review with you specifically, though, the
21 *Sentencing Guidelines* calculations.

22 Total Offense Level is 21. Criminal History Category
23 is 1. The statute provides on Count I of up to ten years; on
24 Count IV of up to five years. The *Guidelines* provisions are
25 37 to 46 months. Probation is not authorized. The period of

1 supervised release is two to three years.

2 Any objections by the Government?

3 MR. DRAKE: No, Your Honor.

4 THE COURT: By Defendant?

5 MR. FEIN: There are not, Your Honor.

6 THE COURT: All right. In that case, the Court will
7 adopt as its additional findings of fact the *Guidelines*
8 calculations as stated.

9 What is the Government's recommendation?

10 MR. DRAKE: Your Honor, the Government's
11 recommendation would be that which is consistent with our
12 original Plea Agreement. Our -- While I think the Probation
13 Office correctly calculated the guideline range to be a Total
14 Offense Level of 21 in the applicable guideline range, in the
15 Plea Agreement the parties agreed to a Total Offense Level of
16 19 which equated to a sentence of 30 to 37 months. I would
17 ask that the Court sentence the Defendant within that
18 guideline range, albeit I do think the Probation Office's
19 findings are correct.

20 And I have also indicated to defense counsel that
21 anything in that guideline range is acceptable to the
22 Government in the -- in the 30-month range is acceptable. And
23 I was opposing, though, any downward variance or departure
24 from that range.

25 THE COURT: All right. And I want to indicate, too,

1 that I have received statements, victim impact statements,
2 that I've read and considered.

3 In the same light, I've reviewed the sentencing
4 memorandum that you filed, Mr. Fein, and all the other
5 materials that you filed, including the various letters from
6 friends and his employees and so forth. I've read all of
7 those, and I'll consider them very carefully.

8 So do you wish to make your recommendation then?

9 MR. FEIN: Yes, Your Honor. I've asked the
10 Government -- I've asked the Court follow the agreement that
11 we have struck with the Government. The Government did not
12 enter that Plea Agreement blindly or lightly. They took
13 serious the facts in the case and evaluated it fairly as they
14 do often.

15 I'd just like to make a few comments about what I
16 think the Court's primary concerns likely are in this case and
17 how to adjust those.

18 I think this case is fundamentally about mental
19 health issues. I think the way -- The purposes of sentencing
20 that impacts most are those purposes that relate to public
21 safety, and I think the way in which this Court can best
22 address public safety concerns is to a variety of conditions
23 it imposes upon Mr. Aughenbaugh that ensure his compliance
24 with the law and with the behavior that the Court will expect.

25 And I would suggest the following, Your Honor:

1 The Court can place a mental health condition on him
2 to involve himself in treatment.

3 The Court can place him on electronic monitoring to
4 make certain that he stays where he's supposed to stay and
5 doesn't stray from that area.

6 The Court can impose travel restrictions on him.

7 The Court can also impose upon him a "no contact"
8 provision with certain members of his family, if it wishes.

9 I think those conditions would most likely address
10 the primary concerns this Court has. And should
11 Mr. Aughenbaugh fail in any way to comply with the conditions
12 the Court imposes, the Court would always be free to revoke
13 his supervised release. I don't think that will ever be
14 necessary, based on my conversations with Mr. Aughenbaugh.

15 What I know of him is that it is -- he is a man who
16 wants to return to court -- return to work, return quickly to
17 revive his business.

18 Behind me on the right are a large number of people
19 who have known Mr. Aughenbaugh much longer than I; who support
20 him; who continue to support him throughout this ordeal of
21 his, and who know him for the man he is; the good and kind man
22 that he is and can be. That doesn't excuse his offense
23 behavior in this case which, as the Bureau of Prisons, I
24 think, pointed out in the report, it was aberrant.

25 And I think that should -- When you look at the

1 totality of his life, he's in his forties now; without any
2 meaningful criminal history.

3 I know the Court has concerns about the firearms.
4 Many of those firearms, some of them have been sold, to our
5 knowledge, already. He will not be allowed to possess or
6 handle firearms in the future. That is the law. He is aware
7 of that, and I've had extensive conversations with him about
8 that matter. He is aware of that, and he is willing to
9 comport his conduct with the requirements of the law and
10 refrain from possessing or being near firearms.

11 I have no doubt that he is committed to that, and I
12 have no doubt that he wishes for nothing more than to carry on
13 with his life in a law abiding way.

14 I really do believe, Your Honor, if you put those
15 conditions on him, that he will not fail the Court. I would
16 ask the Court to give him that chance and that opportunity.
17 He has been confined for 20 months here on the federal case.
18 He's been to the Bureau of Prisons. He's been to the jail.
19 He's been back and forth. He has seen what it's like. He
20 also knows what it's like to live a life of work, and that's
21 the life he wants to return to. He does not want to spend his
22 life in jail. He wants to get back to the friends that are
23 sitting behind me, those who support him. And he's prepared
24 to make whatever effort he has to to do so, Your Honor. And I
25 am confident he will not fail you.

1 I would ask you to abide by the Plea Agreement that
2 the Government and I had struck; to impose a sentence of 30
3 months and to impose those conditions, whatever other
4 conditions the Probation Office feels appropriate.

5 Your Honor, I think if you put him in prison for 10
6 or 15 or 20 more months, whatever number of months more, it's
7 not going to address the primary concerns that the Court has.
8 What will are those conditions I've noted. He has been
9 confined for a significant period of time already.

10 He is contrite. He knows what he has done, and he's
11 accepted things now in his life that he hasn't in the past,
12 and he wants to move forward.

13 So I'd ask the Court to abide by that Plea Agreement
14 and give him that chance. I think if the Court is uncertain
15 of anything, it ought to error on giving him that opportunity,
16 given the confinement he's already been through and given the
17 very tight constraints the Court can place on him.

18 THE COURT: Do you wish to make a statement?

19 MR. FEIN: Your Honor, I talked to Mr. Aughenbaugh
20 about making a statement at some length, but he does have two
21 cases pending and basically part of my advice was not to make
22 a statement. But I can tell you this: He did relay the
23 following to me and I will relay it to you: That he is sorry
24 for his actions. He does not wish to harm his family. They
25 meant a lot to him. He loved them deeply. He is hoping that

1 at one point in time in the future he can reconcile with them.
2 He has had visits from his son, too. He has had communication
3 with his two daughters. He hopes in the future at sometime
4 that he will be able to further open those lines of
5 communication and potentially reconcile.

6 He understands at the same time that his marriage is
7 at an end and that he will have to move on. He wants his
8 family to know that he regrets his actions on that day. He
9 would not make the same mistakes today that he's made then,
10 and he intends to never do so again and take steps necessary
11 to make sure that that's so.

12 THE COURT: I have some questions of your client.
13 Are you going to instruct him that he can't answer my
14 questions or ---

15 MR. FEIN: No, no, no. I've talked to him just
16 briefly. When I walked back into the courtroom, I mentioned
17 that to Mr. Aughenbaugh, and I think he wants to answer your
18 questions to the best that he can, Your Honor. So given our
19 discussions previously, even though I've asked him not to make
20 a statement, if you do want to ask him questions, I'm prepared
21 to let you ask him.

22 THE COURT: Here's my problem with your case: I
23 believe that it was triggered by some kind of a mental
24 illness. You've been diagnosed with that.

25 THE DEFENDANT: Yes, Your Honor.

1 THE COURT: Yeah. But the problem is at first or at
2 least for a long time you denied that you had any problem of
3 that sort. Now are you prepared to take mental health
4 treatment and medications, if necessary?

5 THE DEFENDANT: Yes, Your Honor.

6 THE COURT: No question about it?

7 THE DEFENDANT: No question about it.

8 THE COURT: Put yourself in my position. I have a
9 defendant here who's very intelligent, a very hard worker, a
10 very successful businessman and, yet, who has a documented
11 mental illness that, combined with a hundred firearms, has
12 scared the community greatly, not to mention your own family.

13 Now my first job is to protect the community. How
14 would you suggest I do that?

15 THE DEFENDANT: I -- I don't know, Your Honor. As
16 I -- Adam and I spoke about -- talked about this the past
17 couple of weeks, I did try to put myself in your shoes. I
18 can't. I can't. You know, you've -- You know, you've got a
19 stack of paperwork, and it says what it says.

20 THE COURT: I've never had a case like yours;
21 somebody that has the academic credentials and a business
22 record and success and, yet, crimes of this nature that are
23 incredibly serious crimes.

24 You know, on the one hand, I think you ought to get
25 the maximum sentence for what you've put everybody through.

1 On the other hand, I understand that a good part of it is
2 attributed to your mental illness. I agree that it's in
3 complete remission, and that's all a very good sign. My
4 concern, as is everybody's, is that you'll relapse. So I have
5 to figure out what will -- is necessary to make sure that that
6 doesn't happen.

7 MR. FEIN: Your Honor, if I may. You just asked
8 Mr. Aughenbaugh about his thoughts about this, and we have
9 been talking about this and, frankly, we did talk about what
10 would you do if you were the judge. He's asked me and I've
11 asked him. A -- A theme that's recurred during those
12 conversations is just what you mentioned a moment ago and just
13 what I mentioned, Your Honor, and that is public safety would
14 be my concern, and how do I ensure that we meet those public
15 safety needs? The Court has said that it's concerned that
16 there could be a relapse. That is a possibility. It's always
17 a possibility with mental illness, but it's simply a
18 possibility and not a reality today, and he not ought be
19 punished more for a potential that could arise in the future
20 when there are measures that could be taken today to reduce
21 the likelihood of that occurring. And those measures are the
22 measures that we discussed a moment ago, the various
23 conditions of supervised release this Court can place him on.
24 If he varies from those in any way, the Court will have in its
25 power to exercise its power over him to ensure that he

1 complies or goes back to the Bureau of Prisons.

2 So if the Court's concerned about a future
3 possibility or the ways today to reduce his likelihood of
4 that, given the opportunity to show that that is not likely to
5 happen because he will do what he just told you he will do,
6 and that was to comply with the Court's conditions,
7 participate meaningfully in therapy and abide by the
8 recommendations of the therapist or doctor that is treating
9 him. And I have every reason to believe that's true, and the
10 people behind me would not be here today if they did not think
11 that's true. They know, also, Mr. Aughenbaugh. They believe
12 that is true.

13 THE COURT: Well, they're going to have to help, too.

14 MR. FEIN: Your Honor, they have helped. Ms. Witter
15 who is over there on the front row, next to the left -- to the
16 right has been helping for 20 months at a -- to a degree that
17 I can't imagine. She has been trying to run that business on
18 her own with the phone assistance of Mr. Aughenbaugh. She's
19 probably at a greater state of anxiety today than
20 Mr. Aughenbaugh is because she's at her wits end trying to run
21 that business. She'll do it. She'll do it as long as this
22 Court requires Mr. Aughenbaugh to be gone, but she's been
23 doing it because she believes in Mr. Aughenbaugh. She's known
24 him for years. She is not a short-term friend. She has known
25 him for over a decade. Most of those people have, and they're

1 there looking at you like this because they know something
2 about him, too, that you don't, Your Honor.

3 And it's hard. You are in a very difficult position.
4 You're looking at cold pieces of paper with all sorts of words
5 written by, you know, defense lawyers and prosecutors and
6 probation officers and police officers, and you've got to air
7 it out what's right, what's wrong; the wheat from the chaff,
8 Your Honor. But at the end of the day, your concern is your
9 concern, and it's the same concern I have and the same concern
10 those individuals have, and that is: How do we make sure that
11 Mr. Aughenbaugh's life moves forward in a productive manner
12 that threatens nobody, including himself?

13 He is prepared for that life again. He is ready for
14 that life again, and he recognizes things now that he didn't
15 in the past. Those people are there to support him. They
16 will continue to support him. There are more people ready and
17 available to support him that are in this court -- that are
18 not in this courtroom today. If they were all here, it would
19 fill this room, Your Honor. He will have that support.

20 And I would say this to you, Your Honor: There's a
21 great deal of literature out there that indicates
22 rehabilitative services are much better provided for outside
23 of incarcerated settings, and his best chance of really
24 rehabilitating himself and returning to normalcy and a life
25 that he can be proud of and his friends can be proud of and

1 his family can be proud of is for the Court to put those
2 conditions on him and allow him to try to move forward, and at
3 least give him that chance.

4 If we don't know, it seems to me a big mistake,
5 Your Honor, to say, "We don't know, and, therefore, we're
6 going to incarcerate you forever or for longer periods of
7 time." If we don't know, let's give him that opportunity with
8 those conditions because those conditions will satisfy those
9 concerns.

10 I just read a report yesterday, Your Honor, that was
11 released, and the entire report is about how electronic
12 monitoring itself reduces the likelihood of recidivism and to a
13 great extent because it can track you wherever you go. You
14 can use a GPS system. You can use a monitor. They'll know
15 where he is at any moment. And I guarantee you this: That
16 the results of those monitors will reveal that he's in McCook,
17 Illinois at Ortek, trying to run that business and turn it
18 back into a profitable company, as it once was, and assisting
19 the people behind me and to my right. I have no doubt about
20 that, Your Honor. I just ask you, given the uncertainty, to
21 give him that chance because the offense was motivated by
22 mental health concerns to a degree, a significant degree, the
23 worst aspects of it, and they can be addressed in a rational
24 sound way through measures and technologies available to the
25 Probation Office. And if for some reason that I turn out to

1 be wrong about that, this Court can return Mr. Aughenbaugh to
2 the Bureau of Prisons, but I don't think that day will ever
3 have to come, Your Honor.

4 THE COURT: All right. Is there any legal cause or
5 reason why sentence should not now be imposed?

6 MR. DRAKE: Nothing from the Government, Your Honor.
7 Thank you.

8 MR. FEIN: There is not, Your Honor.

9 THE COURT: Mr. Aughenbaugh, pursuant to the
10 Sentencing Reform Act of 1984 and the provisions of Title 18,
11 United States Code, Section 3553(a), all the factors
12 thereunder, also in view of the sentencing objectives of just
13 punishment, general deterrence and incapacitation, it's the
14 judgment and sentence of the Court that you,
15 Lowell Aughenbaugh, is hereby committed to the custody of the
16 Bureau of Prisons to be imprisoned for a term of 37 months.
17 That term consists of a term of 37 months on each of Counts I
18 and IV, all such terms to be served concurrently.

19 Upon release from imprisonment, you shall be placed
20 on supervised release for a term of three years. This term
21 consists of a term of three years on each of Counts I and IV,
22 all such terms to run concurrently.

23 Within 72 hours of your release from the custody of
24 the Bureau of Prisons, you shall report in person to the
25 Probation Office in the district to which you are released.

1 I have a note here on my sentencing recommendations
2 that I was going to sentence you to 60 months concurrent.
3 Instead, I've given you 37 months. The *Guidelines* provisions
4 were 37 to 46 months. It's the bottom end of the *Guidelines*.
5 I really hope that you prove me right in my discretionary
6 choice to give you that much lenient treatment, but I am going
7 to load you up with a bunch of conditions of probation. I'm
8 going to do everything in my power to make sure that there's
9 no relapse.

10 THE DEFENDANT: All right.

11 THE COURT: So while you're on this three-year
12 supervised release after you're released from custody, I order
13 that you shall comply with the standard conditions that have
14 been adopted by this Court and the following additional
15 conditions:

16 First is an electronic monitoring program. I'd ask
17 the Probation Office for -- The Probation Officer's here.
18 Would you advise the Court about what you might recommend for
19 a location monitoring program?

20 PROBATION OFFICER: Probably the best program for
21 Mr. Aughenbaugh would be to wear the ankle bracelet. If
22 Your Honor has -- I'm not sure if Your Honor has the black
23 book of the conditions in there with regards to location
24 monitoring.

25 THE COURT: All right. I'll order that location

1 monitoring condition for a duration that should be determined
2 by the Probation Officer in the Probation Officer's
3 discretion.

4 Next, I order that you shall refrain from any
5 unlawful use of a controlled substance and submit to a drug
6 test within 15 days of commencement of supervision and at
7 least periodic drug tests thereafter for use of a controlled
8 substance.

9 Next, I order that you shall submit your person,
10 residence, office or vehicle to a search conducted by the
11 Probation Office based upon reasonable suspicion of contraband
12 or evidence of a violation of a condition of release and that
13 you shall warn any other residents that the premises may be
14 subject to searches pursuant to this condition.

15 Next, I order that you shall participate in a mental
16 health program approved by the Probation Office; that you
17 shall pay for the costs associated with services provided
18 based on a co-payment fee established by the Probation Office.
19 And that is critically important. And if they say you need to
20 be on meds, that's all there is to it. You got to do it,
21 whether you think you need them or not. Understand?

22 THE DEFENDANT: Yes, Your Honor.

23 THE COURT: Next, you shall participate in a domestic
24 violence counseling program approved by the Probation Office.
25 You shall pay for the costs associated with the services,

1 again based on a co-payment fee established by the Probation
2 Office.

3 Next, I order that you shall participate in a
4 cognitive behavioral treatment program as directed by the
5 Probation Office and, again, that you shall pay for the costs
6 associated with those services based on a co-payment fee.

7 Next, I order that you are prohibited from contact
8 with your former spouse, Joan Aughenbaugh; your -- the
9 spouse's parents, Terry and Evelyn Nadolski, and his children,
10 Cara, Jacob and Kristin Aughenbaugh, without the prior written
11 permission of the Probation Office, and that you shall report
12 to the Probation Office immediately, but in no event later
13 than 24 hours, any unauthorized contact with those
14 individuals.

15 Given our discussions in chambers, I'll ask the
16 Probation Officer if you have any other recommendations about
17 specific conditions of supervised release?

18 PROBATION OFFICER: Your Honor, based on the letter
19 that was filed yesterday by the Government, it would probably
20 be appropriate for -- I apologize -- Amy Vogel to be added to
21 the "no contact."

22 THE COURT: Yes. I'll make that recommendation, too.
23 That's the sister. Any other recommendations?

24 PROBATION OFFICER: No, Your Honor.

25 THE COURT: By the Government?

1 MR. DRAKE: No, Your Honor. Thank you. That
2 addresses the Government's.

3 THE COURT: I won't impose a fine in the case,
4 although it might be appropriate because you have the ability
5 to pay a fine, but, nonetheless, it's further ordered that you
6 shall pay to the United States a special assessment of \$100 on
7 each of Counts I and IV, for a total of \$200, that shall be
8 due immediately.

9 Mr. Aughenbaugh, I have to advise you: You have a
10 right to appeal from this sentence within 14 days from this
11 date. Failure to appeal within the 14-day period shall be a
12 waiver of your right to appeal. You're also advised that you
13 are entitled to assistance of counsel in taking an appeal.
14 And if you're unable to afford a lawyer, one will be provided
15 for you. And if you so request, the Clerk of the Court will
16 prepare and file a Notice of Appeal on your behalf.

17 Do you understand you have that right to an appeal?

18 THE DEFENDANT: Yes, Your Honor.

19 THE COURT: Yeah. That said, you gave up most every
20 ground that you might have had for bringing an appeal as part
21 of your Plea Agreement. You remember that, too, don't you?

22 THE DEFENDANT: Yes.

23 THE COURT: Do you have any questions about this?

24 THE DEFENDANT: No, Your Honor.

25 THE COURT: Have you satisfied yourself that you can

1 live up to these conditions of supervised release?

2 THE DEFENDANT: Yes, Your Honor.

3 THE COURT: I would hope so.

4 MR. FEIN: Your Honor, I -- I can see you're troubled
5 by the case and by what may happen and rightfully so, and I
6 am, too. I don't think Mr. Aughenbaugh will let you down.

7 THE COURT: Anything further from the Government
8 then?

9 MR. DRAKE: Your Honor, as part of our agreement, I
10 did agree to dismiss certain Counts, and those would be Counts
11 II, III and V at sentencing. I would move to do so now.

12 THE COURT: Those Counts are dismissed.

13 MR. DRAKE: Thank you.

14 THE COURT: Anything further from Defendant then?

15 MR. FEIN: There is not, Your Honor.

16 THE COURT: Mr. Aughenbaugh, I've made my position
17 clear with you. You understand that if you do violate, you'll
18 be back into court and you'll have a lot more time.

19 I hope that you have gained something from the time
20 that you've been incarcerated. I want you to get your life
21 back together even more so in the time that you have remaining
22 to serve. And when you're released, take a different course.
23 Stay over in Illinois with these people who are your friends
24 and supporters and employees and make a good life for yourself
25 that way.

1 All right. Good luck to you, sir.

2 THE DEFENDANT: Thank you.

3 MR. FEIN: Thank you, Your Honor.

4 MR. DRAKE: Thank you, Your Honor.

5 (Hearing adjourned at 1:50 PM.)

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CERTIFICATE

I, Deborah A. Kriegshauser, Registered Merit Reporter and Certified Realtime Reporter, hereby certify that I am a duly appointed Official Court Reporter of the United States District Court for the Eastern District of Missouri.

I further certify that the foregoing is a true and accurate transcript of the proceedings held in the above-entitled case and that said transcript is a true and correct transcription of my stenographic notes.

I further certify that this transcript contains pages 1 through 23 inclusive and that this reporter takes no responsibility for missing or damaged pages of this transcript when same transcript is copied by any party other than this reporter.

Dated at St. Louis, Missouri, this 26th day of October, 2011.

/s/ Deborah A. Kriegshauser

DEBORAH A. KRIEGSHAUSER, FAPR, RMR, CRR

Official Court Reporter